

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1549 of 1997

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

3RD SPL LAQ OFFICER & 1

Versus

MANIBEN D/O SAKALCHAND, DIED, THRO' HIS HEIRS

Appearance:

GOVERNMENT PLEADER for Petitioners

MR SHARMA for the respondent-claimant.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/01/98

ORAL JUDGEMENT

Admit. With the consent of the learned advocates Mr. Jani and Mr. Sharma, the appeal is taken up for hearing today.

2. Present appeal arises of the judgment and order dated 31st March, 1990 passed by the learned Extra Assistant Judge, Ahmedabad Rural on Land Acquisition Case No. 570 of 1987. It appears that the land bearing

survey No. 115 situated at village Vinzol admeasuring 97 are-52 square meters belonging to the predecessor-in-title of the claimants one Maniben Sakalchand was sought to be acquired by issuing notification under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act") on 31st March, 1976. Pursuant to the said acquisition proceedings, possession of the land was taken on 20th March, 1979 and the award was declared on 25th January, 1980. Feeling aggrieved, the claimant applied for reference to the District Court and on such reference having been made, the learned Extra Assistant Judge, Ahmedabad Rural allowed the reference as aforesaid. Under the aforesaid judgment and order dated 31st March, 1990, the learned Judge has directed that the claimant be paid Rs.6/- per square meter over and above the compensation awarded by the Land Acquisition Officer for the acquired lands. The learned Judge has further ordered to pay solatium at the rate of 30 percent of the amount of compensation and interest at the rate of 9 percent p.a. for one year from the date of possession and at the rate of 15 percent p.a. after the expiry of one year from the date of the possession till the date of depositing the entire amount of award. The Court also awarded an additional interest at the rate of 12 percent p.a. from 20th March, 1979 i.e. the date of taking over possession to 25th January, 1980 i.e. date of award. The learned Asstt. G.P. Mr. Jani presses this appeal only so far it pertains to the award of interest to the claimant.

It is undisputed that the award was made on 25th January, 1980 i.e. before the commencement of the Land Acquisition (Amendment) Act, 1984. Section 30 of the said Amending Act makes transitional provisions. In view of the said transitional provisions, as discussed by this Court in the matter of the Special Land Acquisition Officer v. Shanaji Nathaji Thakor (Decd) by his Heir Bhikhaji Shanaji Thakor (1996(2) GLR 455), revised rate of interest would be applicable only in the cases where the award of compensation by the Collector has been made on 30th April, 1982 or thereafter. In the present case, on 30th April, 1982, the matter was pending before the Reference Court and the award by the Collector was already made long before. In that view of the matter, the claimant would be entitled to the interest at the statutory rate as it prevailed before 30th April, 1982 i.e. at 4.5% from the date of issuance of notification under section 4 of the Act i.e. from 31st March, 1976 till 25th January, 1980. The interest awarded to the claimant is modified as above. The claimants will be

entitled to interest at the rate of 4.5 % p.a. on the amount of compensation for the period from 31.3.1976 (the date of issuance of Notification under section 4 of the Act) to 25.1.1980 (date of declaration of award). The appeal is allowed to the aforesaid extent only. There shall be no order as to costs.

Vyas